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**JUN 29 2005**

**OFFICE OF PETITIONS**

In re Application of :  
Aravind Padmanabhan et al :  
Application No. 10/024,462 : DECISION ON PETITION  
Filed: December 17, 2001 :  
Attorney Docket No. H0002475-02 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2004, which, for the reasons stated below, is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment.

The petition under 37 CFR 1.181 is granted.

This application was held abandoned for failure to timely pay the issue and publication fees on or before March 31, 2004, as required by the Notice of Allowance and Fee(s) Due, mailed December 31, 2003. A Notice of Abandonment was mailed on May 26, 2004.

Petitioner states that, while the fees required by the Notice of December 31, 2003, were not paid by the due date of March 31, 2004, a Request for Continued Examination (RCE) and an Information Disclosure Statement were filed in their place on March 31, 2004. In support, petitioner has proffered a stamped return postcard which evidences receipt in the U.S. Patent and Trademark Office (USPTO) of an RCE and Information Disclosure Statement on April 5, 2004.

A review of the file history discloses that the USPTO did in fact receive the RCE and Information Disclosure Statement on April 5, 2004. It is further noted that the RCE bears a certificate of mailing date of March 31, 2004, in compliance with 37 CFR 1.8(a).

37 CFR 1.114 states that an RCE may be filed (1) prior to payment of the issue fee (unless a petition under 37 CFR 1.313 is granted); (2) abandonment of the application; or (3) the filing of a notice of appeal to the U.S. Court of Appeals, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated. The rule further provides that the timely filing of an RCE, fee and submission will withdraw the finality of any Office action.

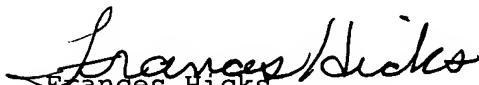
As the RCE was entitled to the certificate of mailing procedure under 37 CFR 1.8(a), the RCE is considered to have been timely filed prior to expiration of the due date for payment of the issue and publication fees. Accordingly, the holding of abandonment was improper and is hereby withdrawn. This application is restored to pending status.

As requested in the RCE filed on April 5, 2004, the required fee of \$770 will be charged to petitioner's deposit account.

Additionally, as a petition to withdraw the holding of abandonment does not require a fee, the \$1,370 fee submitted will be refunded to petitioner's deposit account in due course.

Inquiries concerning this matter may be directed to the undersigned at (571) 272-3218. Any inquiries concerning the examination procedures or status of this application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2863 for processing of the RCE filed on April 5, 2004 and for appropriate action on the concurrently filed Information Disclosure Statement.

  
Frances Hicks  
Petitions Examiner  
Office of Petitions